



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-176567

November 27, 1972

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Dear Mr. Secretary:

We refer further to letter dated July 6, 1972, from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs), forwarded here by letter of July 17, 1972, from the Per Diem, Travel and Transportation Allowance Committee (Control No. 72-28), requesting an advance decision regarding the proposed revision of Volumes 1 and 2 of the Joint Travel Regulations to permit drayage at Government expense between local economy housing under certain circumstances.

In his letter, the Assistant Secretary of the Air Force states that at certain overseas permanent duty stations there are no Government quarters, and, accordingly, military members and civilian employees obtain housing on the local economy under a leasing arrangement. It is said that there are at least two instances where local economy housing may be terminated even though no permanent change of station is involved:

- "(a) reinspection by medical personnel declaring that the military member or civilian employee must move because the quarters no longer meet the established health and sanitation standards,
- "(b) landlord terminates the lease and will not renew it and the military member or employee must move to economy quarters."

Under (a) or (b) the personnel affected are said to have no option other than to move to other economy quarters in the same area.

While there is no provision in the Joint Travel Regulations which would authorize drayage in the described circumstances, it appears to the Assistant Secretary that the principles enunciated in our decision B-173330, July 7, 1971 (51 Comp. Gen. 17), upon which paragraph M8311 of the regulations is based, would be applicable to military members.

In the absence of statutory authority or implementing regulations pertaining to civilian employees in the described situations and in view of the unusual circumstances beyond the control of employees requiring their relocation, it is said that such movement, while not a

PUBLISHED DECISION
52 Comp. Gen. _____

B-176567

transfer, might be considered to be for the convenience of the Government. Although not involving drayage between local economy housing, it is suggested in the Assistant Secretary's letter that the principles of our decision B-138678, April 22, 1959, may be applied in such circumstances.

In view of the foregoing, the Assistant Secretary asks if we would be required to object to the amendment of Volumes 1 and 2 of the Joint Travel Regulations to authorize drayage in the cited circumstances.

Section 406, title 37, U.S. Code, provides that a member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation of household effects, including packing, crating, drayage, temporary storage and unpacking. Subsection (e) also provides for the movement of household effects in unusual or emergency circumstances without regard to the issuance of orders directing a change of permanent station, where the member is serving on permanent duty outside the United States, in Hawaii or Alaska, or on sea duty.

We have held that the term "unusual or emergency circumstances" as used in 37 U.S.C. 406(e) refers to conditions of a general nature incident to military operations or military needs, and not to conditions or needs of a personal nature. See 38 Comp. Gen. 28 (1958); 45 Comp. Gen. 159 (1965); 45 Comp. Gen. 208 (1965); and 49 Comp. Gen. 821 (1970).

Involuntary extension of a member's tour of duty at an overseas station for reasons beyond his control was viewed in 51 Comp. Gen. 17, supra, as a circumstance of an unusual or emergency nature within the contemplation of 37 U.S.C. 406(e). Subsequently, paragraph M8311 of the regulations was promulgated to provide that where a member's tour of duty at a location outside the United States is involuntarily extended and he is required for reasons beyond his control, such as refusal of his landlord to renew the lease agreement, to change his residence on the local economy, he is entitled to drayage and storage incident to such change of residence.

However, without some specific element of military necessity or requirement, such as involuntary extension of a military member's tour of duty for reasons beyond his control, the termination of a lease between him and the landlord of local economy housing at an overseas location, is of a personal nature, and does not constitute unusual or emergency circumstances within the purview of 37 U.S.C. 406(e). Where a military member requires drayage of household goods incident to the assignment or termination of Government quarters due to personal problems, drayage at Government expense is forbidden by paragraph M8309-2 of the regulations.

Consequently, in the circumstances of instance (b) where the landlord terminates a lease and will not renew it and the member must move to other economy quarters, there is no proper basis for authorizing drayage at Government expense.

In decision B-175439, 52 Comp. Gen. ___, August 4, 1972, where as the result of an "off-limits" order issued to protect the health and welfare of personnel residing at a previously approved trailer park located in the continental United States, the member removed his house trailer from such premises and installed it at a currently approved location, we held that he could be reimbursed for the necessary expenses he incurred as a result of such order.

Similarly, where a military member, as in instance (a), in obedience to orders vacates local economy housing because the residence is found not to meet service health and medical standards, drayage at Government expense may be authorized.

Authority for the movement of household effects for civilian employees is set forth in sections 5724 and 5724a of title 5, United States Code, and the statutory regulations issued pursuant thereto, Office of Management and Budget Circular No. A-56. Movement of household effects at Government expense may be made thereunder only when an employee is transferred or assigned to a new official station.

While movement of household effects may not be made between local quarters not involving a change of station under the above-cited law and regulations, in decision B-138678, supra, we held that drayage expenses for moving an employee's household goods between local Government quarters could properly be paid from Government funds, where such move was directed for the convenience of the Government. In decision B-163088, February 28, 1968, and in decision B-172276, July 13, 1971, payment was authorized for the cost of local shipment of household goods of employees who were required as an incident of their employment to leave private quarters and reside in Government housing.

Paragraph C7056 of the Joint Travel Regulations provides that local drayage of an employee's household goods is authorized when, for the convenience of the Government, the local commander issues written orders to the employee directing a change in place of residence from:

1. Government quarters to other Government quarters,
2. Government quarters to private quarters,
3. private quarters to Government quarters.

"* * * The cost of local drayage authorized by this paragraph will be charged as an operating expense of the installation concerned."

The principle followed in the above cited cases and in paragraph C7056 of the Joint Travel Regulations would appear equally applicable where at an overseas permanent duty station an employee is required by the Government to leave private quarters and, necessarily must reside in other non-Government quarters in the same locality, as the result of an official determination that his previously approved housing no longer meets established health and sanitation standards. In regard to such official determination, it is understood from information developed informally that such determinations are made pursuant to the authority of AR 210-51, paragraph 4-7, USAREUR Supplement 1 to AR 210-51, and similar authorities relative to the housing referral service program. In view thereof where a civilian employee is required to move and has no option otherwise in the matter drayage may be considered as in the interest of the United States and as such authorized as an administrative expense (instance (a)).

As in the case of military members, civilian employees who are obliged to obtain other non-Government quarters because their landlords refuse to renew leases or otherwise permit them to remain in their local economy housing, but who do not move their household goods as the direct result of or in connection with an official order or action, are not entitled to Government drayage as such change of quarters is not for the convenience of the Government (instance (b)).

Consequently, we would not object to the revision of Volumes 1 and 2 of the Joint Travel Regulations to permit drayage at Government expense between local economy housing in circumstances cited in (a) of the Assistant Secretary's letter, but we would object to provision for payment of drayage in instance (b).

Sincerely yours,

R.F.KELLER

Deputy Comptroller General
of the United States

The Honorable
The Secretary of the Air Force